

Sent via e-mail, fax, hand delivery  
and/or U.S. Mail

April 21, 2004

Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station  
Boston, MA 02110

Re: Investigation by the Department of Telecommunications and Energy into Berkshire Gas Company's 2003 Service Quality Report, filed pursuant to *Service Quality Standards for Electric Distribution Companies and Local Gas Distribution Companies*, D.T.E. 99-84, (June 29, 2001), D.T.E. 04-13.

Dear Secretary Cottrell:

On April 5, 2004, the Department of Telecommunications and Energy ("Department") opened an investigation into the 2003 Service Quality Report ("SQ Report") filed by Berkshire Gas Company ("Berkshire" or the "Company") pursuant to *Service Quality Standards for Electric Distribution Companies and Local Gas Distribution Companies*, D.T.E. 99-84 (June 29, 2001). The Department issued an Order of Notice requesting Comments on the Company's 2003 SQ Report. The Attorney General files this letter as his Comments.<sup>1</sup>

The Company's 2003 SQ Report shows the same staffing level as the Company indicated in last year's 2002 SQ Report. This staffing level is below the staffing level that Berkshire had in existence as of November 1, 1997. State law forbids reductions in staffing levels below those in existence as of November 1, 1997, unless the reductions are authorized by a collective bargaining agreement or approved by the Department **following an evidentiary hearing**. G.L. c. 164, § 1E(b) (emphasis added). Berkshire's current reduced staffing level is neither authorized by a collective bargaining agreement nor approved by the Department following an

---

<sup>1</sup> The Attorney General's Comments do not address all issues raised by the Company's 2003 SQ Report. Accordingly, the lack of comment on other matters contained in the filing should not be construed or otherwise interpreted as the Attorney General's agreement, assent, or acquiescence to those matters.

evidentiary hearing. *See* Attorney General's Motion for Reconsideration (attached as Attachment A). Accordingly, Berkshire is operating with a staffing level below the minimum level required by state law. Berkshire's staffing level and the related lack of compliance with the requirements of the Service Quality Guidelines in G.L. c. 164, § 1E, raise many public safety and service quality concerns regarding the Company's ability to safely provide utility service to its customers at satisfactory service quality levels with less than the minimum level of required personnel.

The Attorney General raised similar public safety and service quality concerns about the impact of Berkshire's reduced staffing level on public safety and service quality during last year's service quality investigation in docket DTE 03-11. There, the Attorney General asked the Department to conduct an investigation that allowed intervention, discovery and evidentiary hearings to address both the deficiencies in the Company's 2002 SQ Report as well as the Company's reduced staffing level. *See* Attorney General's Motion for Reconsideration; Attorney General's 2002 Comments (attached as Attachments A and B respectively). Other parties also raised concerns last year regarding the Company's reduced staffing level and also asked the Department to conduct evidentiary hearings on the matter. *See* Attachment A. The Department held no hearings on this matter and has not yet ruled on the pending October 20, 2003, Attorney General's Motion for Reconsideration.

Since Berkshire's staffing level issues have appeared again this year in the Company's 2003 SQ Report, the Attorney General renews his request that the Department conduct an investigation that allows intervention, discovery and evidentiary hearings to address the Company's reductions in staffing level and possible violation of G.L. c. 164, § 1E(b). In addition, the Attorney General supports the April 9, 2004, Complaint of the United Steelworkers of America, Local 12325 and twenty four of the Company's customers filed with the Department against Berkshire alleging staffing level violations and related service quality concerns.<sup>2</sup> Finally, the Attorney General adopts and incorporates the recommendations he set forth in his

---

<sup>2</sup> The Department, by conducting an investigation that allows intervention, discovery, and an evidentiary hearing, could not only grant the relief requested in the pending October 20, 2003, Attorney General's Motion for Reconsideration, but also grant partial relief to the April 9, 2004, Complaint.

separately filed generic Comments in the other service quality investigation dockets which Comments are attached as Attachment C.<sup>3</sup>

Sincerely,

---

Wilner Borgella, Jr.  
Assistant Attorney General  
Utilities Division  
Public Protection Bureau  
200 Portland Street  
Boston, MA 02114  
(617) 727-2200

WB/wb

Enc.

cc: Jody Stiefel, Hearing Officer (w/enc.)  
Service List (w/enc.)

---

<sup>3</sup> The Attorney General set forth five (5) recommendations on revising and improving the current service quality reporting process in his Comments in dockets D.T.E. 04-12, 04-14, 04-15, 04-16, 04-17, 04-18, 04-19, 04-20, 04-21, 04-22, 04-23, 04-24, 04-25.